

**KENTUCKY PERSONNEL BOARD
MINUTES OF AUGUST 9, 2013**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on August 9, 2013, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman
Larry B. Gillis, Vice Chairman
David B. Stevens, Member
David F. Hutcheson, Jr., Member
Tommy W. Chandler, Member
Ramona Herndon, Member
Mark A. Sipek, Executive Director and Secretary
Boyce A. Crocker, General Counsel
Linda R. Morris, Administrative Section Supervisor
Cynthia Perkins, Administrative Specialist

Board Personnel Absent:

Donald W. "Don" Blevins, Member

2. **READING OF THE MINUTES OF REGULAR MEETING HELD JULY 12, 2013**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Mr. Hutcheson moved to approve the minutes, as submitted. Ms. Herndon seconded, and the motion carried 6-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek stated that he spoke at the mediators' quarterly meeting of the KEMP program. He discussed with them the Personnel Board's major cases and issues.

Mr. Sipek stated that he hoped to present the Personnel Board's Annual Report at the September Board meeting.

Mr. Sipek announced Dr. Stevens' reappointment to the Board and was pleased to have him back for another term. [Prior to the Board's call to order, Dr. Stevens was sworn in by Boyce A. Crocker, General Counsel.]

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

4. **PERSONNEL CABINET'S REPORT**

The Hon. Dinah Bevington came forward to present the Personnel Cabinet's report.

Ms. Bevington advised that state employees will receive their August 15, 2013 paycheck electronically. No check stubs will be printed in paper form. The Cabinet fielded a few phone calls with questions from employees and they were directed to contact their agency. Mr. Sapp asked Ms. Bevington if she would report to the Board next month what percentage of employees required special assistance to access their electronic checks, because not all employees have computer access.

Ms. Bevington stated that the Kentucky Employees Charitable Campaign (KECC) kicked off their 20th annual campaign. Employees can make a donation to a selected group of Kentucky organizations which impact Kentucky citizens.

The Personnel Cabinet is accepting nominations for the Governor's Ambassador Awards until the end of August. This is a way to honor state employees or citizens who have impacted the state (i.e. teamwork, dedicated service, etc.). Information is available on the Cabinet's website.

Ms. Bevington advised that the amended regulations brought before the Board in May 2013 will be effective September 2013. A memorandum summarizing these changes will go out to the agencies and employees.

At the conclusion of the Personnel Cabinet's report, Chairman Sapp called the parties forward for oral argument.

5. **ORAL ARGUMENTS**

A. Boyd Clemons v. Justice and Public Safety Cabinet [Dept. of Juvenile Justice] (2012-113)

Present for oral argument was Counsel for Appellee, Hon. Adam Adkins. The Appellant's counsel, Hon. Gary S. Logsdon, was not present due to medical reasons. This matter was rescheduled for the September 2013 Board meeting.

B. Todd McGuire v. Cabinet for Health and Family Services (2012-173)

Present for oral argument were the Appellant, Todd McGuire, and counsel for Appellee, the Hon. Cary Bishop. After presenting oral arguments, the parties answered questions from the Board.

C. Christine Welker v. Cabinet for Health and Family Services (2012-005)

Present for oral argument were counsel for Appellant, the Hon. Michael Boylan; and counsel for Appellee, the Hon. Tim Salansky. After presenting oral arguments, the parties answered questions from the Board.

D. ~~Barry Wilding v. Justice and Public Safety Cabinet [Dept. of Corrections] and Kevin Mazza and Jason Criswell~~ **Moved to September Meeting**

6. **INVESTIGATIONS**

Update on Department of Agriculture Investigation

Mr. Sipek advised that he has started the process of writing the report. Mr. Sipek stated that his goal is to have it completed for the Board's review by the September 2013 Board meeting. The parties will also be given a chance to respond to the report.

7. **CLOSED SESSION**

Mr. Hutcheson moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Dr. Stevens seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 6-0. (10:32 a.m.)

Dr. Stevens moved to return to open session. Ms. Herndon seconded and the motion carried 6-0. (11:00 a.m.)

8. CASES TO BE DECIDED

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

- A. Boyd Clemons v. Justice and Public Safety Cabinet [Dept. of Juvenile Justice]
(2012-113) (1-day suspension for unsatisfactory performance of duties)
--Appellant's Exceptions
--Appellee's Request for Oral Argument
--Appellee's Response to Exceptions

This matter was rescheduled for oral arguments at the September 13, 2013 Board meeting.

- B. Todd McGuire v. Cabinet for Health and Family Services (2012-173)

Mr. Hutcheson moved to note Appellant's exceptions, Appellee's response and oral arguments and to accept the recommended order sustaining the appeal to the extent that the three-day suspension was reduced to a one-day suspension. Ms. Herndon seconded and the motion carried 6-0.

- C. Christine Welker v. Cabinet for Health and Family Services (2012-005)

Judge Chandler moved to note Appellee's exceptions, Appellant's response, and oral arguments and to accept the recommended order sustaining the appeal. Dr. Stevens seconded and the motion carried 6-0.

- D. ~~Barry Wilding v. Justice and Public Safety Cabinet [Dept. of Corrections] and Kevin Mazza and Jason Criswell~~
Moved to September Board meeting

- E. Eric R. Goodin v. Tourism, Arts & Heritage Cabinet [Parks] (2012-139)
Deferred from July meeting

Mr. Gillis moved to note Appellant's exceptions, Appellee's response and oral arguments and to accept the Final Order Altering the recommended order and dismissing the appeal, as attached to the minutes. Ms. Herndon seconded and the motion carried 4-0, with Chairman Sapp recusing and Dr. Stevens abstaining.

- F. Monique Anthony v. Justice and Public Safety Cabinet [Dept. of Corrections]

Mr. Gillis moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 6-0.

G. Greta Chandler v. Transportation Cabinet (2012-239)

Dr. Stevens moved to accept the recommended order sustaining the appeal to the extent that the three-day suspension was reduced to a one-day suspension. Mr. Hutcheson seconded and the motion carried 6-0.

H. Erica Kennedy v. Justice and Public Safety Cabinet [Dept. of Corrections]
(2012-237)

Mr. Hutcheson moved to accept the recommended order sustaining the appeal. Mr. Gillis seconded and the motion carried 6-0.

I. Julia Sandlin v. Cabinet for Health and Family Services (2012-270)

Judge Chandler moved to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 6-0.

J. Todd Yonker v. Justice and Public Safety Cabinet [Dept. of Corrections]
(2012-260)

Mr. Gillis moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 6-0.

Show Cause Orders –Response Filed

K. Carol Dean v. Cabinet for Health and Family Services
--Appellant's Response to Show Cause

Judge Chandler moved to remand this matter back to the active docket for further proceedings. Dr. Stevens seconded and the motion carried 5-1, with Mr. Hutcheson opposing.

Show Cause Orders - Appeals Dismissed – No Response Filed

The following cases had a show cause order entered by the hearing officer recommending that the appeals be dismissed for failure to timely prosecute unless a statement was filed by the Appellants stating sufficient cause to excuse their failure to appear at the scheduled hearing. There were no responses submitted by the Appellants to the show cause orders.

- L. Latanya Jarboe-Hall v. Cabinet for Health and Family Services
- M. Michele Belcher Kilgore v. Education and Workforce Development Cabinet
- N. Johnny Pace v. Transportation Cabinet

Mr. Hutcheson moved to find that the Appellants had not responded to the show cause orders and that the recommended orders be accepted *en bloc* dismissing the appeals for failure to timely prosecute the appeals. Judge Chandler seconded and the motion carried 6-0.

9. **WITHDRAWALS**

Ms. Herndon moved to consider the following withdrawals of appeals *en bloc* and to accept the withdrawals and dismiss the appeals. Dr. Stevens seconded and the motion carried 6-0.

- A. Byron Nelson v. Energy and Environment Cabinet
- B. John Reynolds v. Transportation Cabinet, Bradley Burnette and Edward Howard
- C. Katina Swansegar v. Transportation Cabinet and Personnel Cabinet
- D. Jennifer Markey v. Justice and Public Safety Cabinet and Personnel Cabinet
- E. Mesha Rogers (now Whitaker) v. Justice and Public Safety Cabinet and Personnel Cabinet
- F. Ashley Winchester v. Tourism, Arts & Heritage (Parks)
- G. Martin Wright v. Transportation Cabinet

10. **SETTLEMENTS**

Mr. Hutcheson moved to accept the settlements *en bloc* as submitted by the parties, and to sustain the appeals to the extent set forth in the settlements. Mr. Gillis seconded and the motion carried 6-0.

- A. Lisa Lizer v. Cabinet for Health and Family Services
- B. Tiffanie Noble Pease v. Cabinet for Health and Family Services
- C. Mary Darlene Aubrey v. Cabinet for Health and Family Services
- D. Oda Barnes v. Cabinet for Health and Family Services (2 appeals)
- E. Kristi Broyles v. Transportation Cabinet (3 appeals)
- F. Melissa Hill v. Cabinet for Health and Family Services
- G. Wanda Lacy v. Transportation Cabinet

11. **OTHER**

Chairman Sapp asked if there were any other matters to be discussed. There being no further business, Mr. Hutcheson moved to adjourn. Dr. Stevens seconded and the motion carried 6-0. (11:05 a.m.)

Wayne D. Sapp, Chairman

Larry B. Gillis, Vice Chairman

David B. Stevens, Member

David F. Hutcheson, Jr., Member

Tommy W. Chandler, Member

Ramona Herndon, Member